

AMENDED IN ASSEMBLY APRIL 10, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2831

Introduced by Assembly Member Simitian

February 25, 2002

An act to amend Section 123148 of the Health and Safety Code, relating to health records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2831, as amended, Simitian. Health records: delivery of laboratory test results by Internet posting.

Existing law provides that a health care professional who orders a laboratory test shall provide a patient, upon a written or oral request, those test results in plain language deemed most appropriate by the health care professional who ordered the test.

Existing law permits test results to be delivered in electronic form if requested by the patient and if deemed appropriate by the health care professional who requested the test, except that certain clinical laboratory test results are prohibited from being conveyed to a patient by Internet posting or other electronic ~~manner~~ means, including test results from Pap smears.

This bill would ~~eliminate the prohibition of Pap smear test results~~ instead provide that specified clinical laboratory test results may not be conveyed to the patient by Internet posting or other electronic means before the results have been otherwise communicated to the patient by the treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of or with the authorization of the health care professional who ordered the test. This

bill would also exclude specified direct communications from certain procedural requirements.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 123148 of the Health and Safety Code
2 is amended to read:

3 123148. (a) Notwithstanding any other provision of law, a
4 health care professional at whose request a test is performed shall
5 provide or arrange for the provision of the results of a clinical
6 laboratory test to the patient who is the subject of the test if so
7 requested by the patient, in oral or written form. The results shall
8 be conveyed in plain language and in oral or written form, except
9 the results may be conveyed in electronic form if requested by the
10 patient and if deemed most appropriate by the health care
11 professional who requested the test. ~~Consent of the patient to~~
12 ~~receive his or her laboratory results by Internet posting or in other~~
13 ~~electronic form shall be obtained in a manner consistent with the~~
14 ~~requirements of Section 56.11 of the Civil Code.~~

15 (b) (1) *Consent of the patient to receive his or her laboratory*
16 *results by Internet posting or other electronic means shall be*
17 *obtained in a manner consistent with the requirements of Section*
18 *56.11 of the Civil Code.* In the event that a health care professional
19 arranges for the provision of test results by Internet posting or
20 other electronic manner, the results shall be delivered to a patient
21 in a reasonable time period, but only after the results have been
22 reviewed by the health care professional. Access to clinical
23 laboratory test results shall be restricted by the use of a secure
24 personal identification number when the results are delivered to a
25 patient by Internet posting or other electronic manner.

26 (2) *Nothing in paragraph (1) shall apply to direct*
27 *communication by Internet posting or the use of other electronic*
28 *means to convey clinical laboratory test results by a treating health*
29 *care professional who ordered the test for his or her patient or by*
30 *a health care professional acting on behalf of, or with the*
31 *authorization of, the health care professional who ordered the test.*
32 *For the purpose of this section, "direct communication" means*



1 *that the test results may only be viewed by the patient or the person*
2 *who posted them.*

3 (c) When a patient requests to receive his or her laboratory test
4 results by Internet posting, the health care professional shall advise
5 the patient of any charges that may be assessed directly to the
6 patient or insurer for the service and that the patient may call the
7 health care professional for a more detailed explanation of the
8 laboratory test results when delivered.

9 (d) The electronic provision of test results under this section
10 shall be in accordance with any applicable federal law governing
11 privacy and security of electronic personal health records.
12 However, any state statute, if enacted, that governs privacy and
13 security of electronic personal health records, shall apply to test
14 results under this section and shall prevail over federal law if
15 federal law permits.

16 (e) The test results to be reported to the patient pursuant to this
17 section shall be recorded in the patient's medical record, and shall
18 be reported to the patient within a reasonable time period after the
19 test results are received at the offices of the health care professional
20 who requested the test.

21 (f) Notwithstanding subdivisions (a) and (b), none of the
22 following clinical laboratory test results and any other related
23 results shall be conveyed to a patient by Internet posting or other
24 electronic ~~manner~~ *means before the results have been otherwise*
25 *communicated to the patient by the treating health care*
26 *professional who ordered the test for his or her patient or by a*
27 *health care professional acting on behalf of or with the*
28 *authorization of the health care professional who ordered the test:*

29 (1) HIV antibody test.

30 (2) Presence of antigens indicating a hepatitis infection.

31 (3) Abusing the use of drugs.

32 (4) Test results related to routinely processed tissues, including
33 skin biopsies, *Pap smear tests*, products of conception, and bone
34 marrow aspirations for morphological evaluation, *if they reveal a*
35 *malignancy.*

36 (g) Patient identifiable test results and health information that
37 have been provided under this section shall not be used for any
38 commercial purpose without the consent of the patient, obtained
39 in a manner consistent with the requirements of Section 56.11 of
40 the Civil Code.

1 (h) Any third party to whom laboratory test results are
2 disclosed pursuant to this section shall be deemed a provider of
3 administrative services, as that term is used in paragraph (3) of
4 subdivision (c) of Section 56.10 of the Civil Code, and shall be
5 subject to all limitations and penalties applicable to that section.

6 (i) A patient may not be required to pay any cost, or be charged
7 any fee, for electing to receive his or her laboratory results in any
8 manner other than by Internet posting or other electronic form.

9 (j) A patient or his or her physician may revoke any consent
10 provided under this section at any time and without penalty, except
11 to the extent that action has been taken in reliance on that consent.

